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10 **BEFORE THE**
RESPIRATORY CARE BOARD
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 THOMAS LEE KUCIEMBA, R.C.P.
6421 Harvard Circle
15 Huntington Beach, CA 92647

16 Respiratory Care Practitioner License No. 16348

17 Respondent.

Case No. 1H-2008-148

OAH No.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
20 proceeding that the following matters are true:

21 **PARTIES**

22 1. Stephanie Nunez (Complainant) is the Executive Officer of the
23 Respiratory Care Board of California. She brought this action solely in her official capacity and
24 is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of
25 California, by David P. Chan, Deputy Attorney General.

26 2. Respondent THOMAS LEE KUCIEMBA, R.C.P., is representing himself
27 in this proceeding and has chosen not to exercise his right to be represented by counsel.

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3. On or about September 10, 1993, the Respiratory Care Board of California issued Respiratory Care Practitioner License No. 16348 to THOMAS LEE KUCIEMBA, R.C.P. (Respondent). The license was in full force and effect at all times relevant to the charges brought in Accusation No. 1H-2008-148 and will expire on June 30, 2009, unless renewed.

JURISDICTION

4. On August 14, 2008, Accusation No. 1H-2008-148 was filed before the Respiratory Care Board (Board), Department of Consumer Affairs, and is currently pending against Respondent. A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent on August 14, 2008. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 1H-2008-148 is attached as Exhibit A and incorporated herein by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and fully understands the charges and allegations in Accusation No. 1H-2008-148. Respondent also has carefully read, and fully understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 1H-2008-148, agrees that cause exists for discipline and hereby surrenders his

Respiratory Care Practitioner License No. 16348 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Respiratory Care Practitioner License No. 16348 without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Respiratory Care Board. Respondent understands and agrees that counsel for Complainant and the staff of the Respiratory Care Board of California may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Respiratory Care Practitioner License No. 16348,
issued to Respondent THOMAS LEE KUCIEMBA, R.C.P., is surrendered and accepted by the
Respiratory Care Board.

13. The surrender of Respondent's Respiratory Care Practitioner License No. 16348 and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall

1 become a part of Respondent's license history with the Board.

2 14. Respondent shall lose all rights and privileges as a Respiratory Therapist
3 in California as of the effective date of the Board's Decision and Order.

4 15. Respondent shall cause to be delivered to the Board both his wall license
5 certificate and, if one was issued, pocket license on or before the effective date of the Decision
6 and Order.

7 16. Respondent fully understands and agrees that if he ever files an application
8 for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
9 petition for reinstatement. Respondent must comply with all the laws, regulations and
10 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all
11 of the charges and allegations contained in Accusation No. 1H-2008-148 shall be deemed to be
12 true, correct and admitted by Respondent when the Board determines whether to grant or deny
13 the petition. Respondent also understands and agrees that at the time for said application for
14 relicensure or petition for reinstatement, he shall reimburse the Board its cost of investigation
15 and enforcement in this case in the amount of \$3,278.00.

16 17. Should Respondent ever apply or reapply for a new license or certification,
17 or petition for reinstatement of a license, by any other health care licensing agency in the State of
18 California, all of the charges and allegations contained in Accusation No. 1H-2008-148 shall be
19 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
20 Issues or any other proceeding seeking to deny or restrict licensure.

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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Respiratory Care Practitioner License No. 16348. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Respiratory Care Board.

DATED: December 20, 2008.

Original signed by: _____
THOMAS LEE KUCIEMBA, R.C.P.
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Respiratory Care Board of the Department of Consumer Affairs.

DATED: December 22, 2008

EDMUND G. BROWN JR., Attorney General
of the State of California

THOMAS S. LAZAR
Supervising Deputy Attorney General

Original signed by: _____
DAVID P. CHAN
Deputy Attorney General

Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

THOMAS LEE KUCIEMBA, R.C.P.
6421 Harvard Circle
Huntington Beach, CA 92647

Respiratory Care Practitioner License No. 16348

Respondent.

Case No. 1H-2008-148

OAH No.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Respiratory Care Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on January 26, 2009.

It is so ORDERED January 16, 2009.

Original signed by: _____

LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA